

AMENDED IN SENATE MARCH 27, 2006

SENATE BILL

No. 1619

Introduced by Senator Dutton

February 24, 2006

An act to add and repeal Section 6357.7 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1619, as amended, Dutton. Sales and use taxes: exemptions: fuel and petroleum products: air common carriers.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax, including an exemption for the gross receipts from the sale of, and the storage, use, or other consumption of, fuel and petroleum products sold to an air common carrier for immediate consumption or shipment in the conduct of its business on an international flight.

This bill would, for calendar years beginning on or after January 1, 2007, and before January 1, 2012, exempt from those state taxes—a ~~specified amount of the~~ gross receipts *in excess of \$1.131 per gallon* derived from the sale in this state of, and the storage, use, or other consumption in this state of, fuel and petroleum products sold to or purchased by an air common carrier on a domestic flight, as specified.

This bill would also require the State Board of Equalization, beginning on January 1, 2008, and annually thereafter, to submit a report to the Legislature setting forth the state fiscal impact of the exemption.

Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are automatically incorporated into the local taxes.

This bill would specify that this exemption does not apply to local sales or transactions and use taxes, unless the governing body of the taxing county, city, or district votes otherwise.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6357.7 is added to the Revenue and
2 Taxation Code, to read:
3 6357.7. (a) From January 1, 2007, to December 31, 2011,
4 inclusive, there are exempted from the taxes imposed by this
5 part, those gross receipts ~~equal to _____ cents per gallon (which~~
6 ~~amount represents the average gross receipts per gallon derived~~
7 ~~from fuel and petroleum products sold or purchased in this state~~
8 ~~during the 2004 calendar year) in excess of one dollar and~~
9 ~~thirteen and one-tenth cents (\$1.131) per gallon~~ derived from the
10 sale in this state of, or the storage, use, or other consumption in
11 this state of, fuel and petroleum products sold to or purchased by
12 an air common carrier for ~~immediate~~ consumption or shipment in
13 the conduct of its business as an air common carrier, on a
14 domestic flight.
15 (b) To qualify for the exemption, the air common carrier shall
16 furnish to the seller an exemption certificate ~~in writing stating the~~
17 ~~quantity of fuel and petroleum products claimed as exempt. That~~
18 ~~certificate shall bear the purchaser's valid seller's permit number~~
19 ~~or valid fuel exemption registration number and shall be~~
20 ~~substantially~~ in the form prescribed by the board. Acceptance in

1 good faith of that certificate shall relieve the seller from liability
2 for the sales tax *exempted under this section*.

3 (c) For purposes of this section, the following definitions
4 apply:

5 (1) “Air common carrier” has the same meaning as that set
6 forth in Section 23046 of the Business and Professions Code.

7 (2) “Domestic flight” means a flight whose final destination is
8 a point inside of the United States, including its territories.

9 ~~(3) “Immediate consumption or shipment” means that the~~
10 ~~delivery of the fuel and petroleum products by the seller is~~
11 ~~directly into an aircraft for consumption or transportation on a~~
12 ~~domestic flight and not for storage by the purchaser or any third~~
13 ~~party.~~

14 (d) Any air common carrier claiming exemption under this
15 section, who is not required to hold a valid seller’s permit, shall
16 be required to register with the board and obtain a fuel exemption
17 registration number, and shall be required to file returns as the
18 board may prescribe, either if the board notifies the carrier that
19 returns must be filed or if the carrier is liable for taxes based
20 upon consumption or transportation of fuel or petroleum products
21 erroneously claimed as exempt under this section.

22 (e) An air common carrier claiming an exemption under this
23 section upon request, shall make available to the board records,
24 including, but not limited to, a copy of a log abstract, an air
25 waybill, or a cargo manifest, documenting its consumption or
26 transportation of the fuel or petroleum products on a domestic
27 flight and the amount claimed as exempt. If the carrier fails to
28 provide these records upon request, the board may revoke the
29 carrier’s fuel exemption registration number.

30 (f) The board may require any air common carrier claiming an
31 exemption under this section and required to obtain a fuel
32 exemption registration number, to place with it such security as
33 the board may determine pursuant to Section 6701.

34 (g) Pursuant to this section, any use of the fuel and petroleum
35 products by the purchasing carrier, other than that incident to the
36 delivery of the fuel and petroleum products to the carrier and the
37 consumption or transportation of the fuel and petroleum products
38 by the carrier on a domestic flight for use in the conduct of its
39 business as a common carrier, or a failure of the carrier to
40 document its consumption or transportation of the fuel and

1 petroleum products on a domestic flight, shall subject the carrier
2 to liability for payment of sales tax as if it were a retailer making
3 a retail sale of the property at the time of that use or failure, and
4 the sales price of the property to it shall be deemed to be the
5 gross receipts from the retail sale.

6 *(h) Notwithstanding any provision of the Bradley-Burns*
7 *Uniform Local Sales and Use Tax Law (Part 1.5 (commencing*
8 *with Section 7200)) or the Transactions and Use Tax Law (Part*
9 *1.6 (commencing with Section 7251)), the exemption established*
10 *by this section shall not apply with respect to any tax levied by a*
11 *county, city, or district pursuant to, or in accordance with, either*
12 *of those laws, unless approved by the local government that*
13 *would otherwise receive the revenues derived from the taxes*
14 *imposed under those laws.*

15 ~~(h)~~

16 *(i) On January 1, 2008, and annually thereafter, the State*
17 *Board of Equalization shall submit a report to the Legislature*
18 *setting forth the state fiscal impact of the exemption allowed*
19 *under this section.*

20 ~~(i)~~

21 *(j) This section shall remain in effect only until January 1,*
22 *2012, and as of that date is repealed.*

23 SEC. 2. Notwithstanding Section 2230 of the Revenue and
24 Taxation Code, no appropriation is made by this act and the state
25 shall not reimburse any local agency for any sales and use tax
26 revenues lost by it under this act.

27 SEC. 3. Any governing body of any county, city, or district
28 that votes to allow the exemption provided in Section 6357.7 of
29 the Revenue and Taxation Code, shall notify the State Board of
30 Equalization on or before December 1, 2006.

31 ~~SEC. 3.~~

32 SEC. 4. This act provides for a tax levy within the meaning of
33 Article IV of the Constitution and shall go into immediate effect.